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JUL 01 2005
OFFICE OF PETITIONS

In re Application of
Radu, et al.
Application No. 10/711,636
Filed: 29 September, 2004
Attorney Docket No.: MASL-52

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: DECISION ON PETITION
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This is a decision on the petition filed on 21 March, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 29 September, 2004, without, *inter alia*, a fully executed oath/declaration, and the the Office mailed a Notice of Missing Parts on 25 October, 2004;
- initially, Petitioner Kevin G. Rooney (Reg. No. 36,330) filed on 22 December, 2004, a petition (with fee) under 37 C.F.R. 1.47 with, *inter alia*, a statement by Steven Benintendi (Reg. No. 56,297) and a copy of an oath/declaration signed by name co-inventor Dry, but without the signature of non-signing inventor Bogdan Radu. (Mr. Radu), stated a "last known address" for him, and made a statement that he has tried to reach Mr. Radu (through counsel), the transmittal letters placed in evidence by Petitioner and alleged to have been sent to Mr. Radu clearly indicate that only an oath/declaration, and not a copy

of the entire application (description, claims, drawings) were mailed to the non-signing inventor Mr. Radu in an effort to contact him and have him execute the oath/declaration, and that petition was dismissed on 11 February, 2005, for those deficiencies;

- a renewed petition was filed via FAX on 21 March, 2005, and now evidences that, along with the oath/declaration, the entire application—description, abstract, claims and drawings—were sent to Mr. Radu, as required, and that he has not replied.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

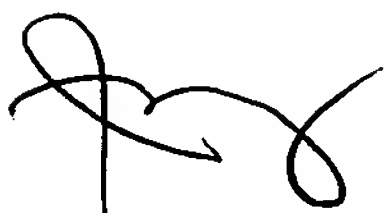
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a).**

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions



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In re Application of
Radu, et al.
Application No. 10/711,636
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: COMMUNICATION
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Dear Bogdan Radu:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,¹ ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application,

¹ The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.



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